

UNITED STATES BANKRUPTCY COURT DISTRICT OF NEW JERSEY
Caption in Compliance with D.N.J. LBR 9004-1(b)
Ashley Rose, Esq. Sandelands Eyet LLP 1545 US Highway 206, Suite 304 Bedminster, NJ 07921 Telephone No.: 908-470-1200 Fax No.: 908-470-1206 <i>Attorneys for Secured Creditor</i>
In Re: FRANCISCUS MARIA DARTEE , Debtor(s).
FRANCISCUS MARIA DARTEE, Plaintiff, v. THE BANK OF NEW YORK MELLON CORPORATION AS TRUSTEE FOR STRUCTURED ASSET MORTGAGE INVESTMENTS II INC. MORTGAGE PASS- THROUGH CERTIFICATES SERIES 2006-AR7, Defendant.

**CERTIFICATION OF ATTORNEY IN SUPPORT OF DEFENDANT'S
MOTION TO DISMISS PLAINTIFF'S ADVERSARY COMPLAINT WITH PREJUDICE**

I, Ashley L. Rose, Esq., pursuant to 28 U.S.C. § 1746, being of full age, do hereby declare
the following:

1. I am an attorney at Sandelands Eyet LLP and am fully familiar with the facts of this case. I make this Certification in support of Movant's Motion to Dismiss Plaintiff's Adversary Complaint with Prejudice.

2. Movant fully incorporates the Certification of co-counsel Laura Egerman, with Exhibits, filed on October 15, 2018 in the associated bankruptcy case. (ECF Doc. No. 29-1)

3. This matter involves a mortgage loan secured by premises known as 12 Moonshadow Court, Kinnelon, NJ 07405 (the "Mortgaged Property").

4. On October 28, 2014, based on Plaintiff's failure to make timely payments on the mortgage loan secured by the Mortgaged Property, Movant filed a foreclosure action in Morris County as Docket F-45047-14 (the "Foreclosure Action"). A true and correct copy of the docket summary for that matter is attached hereto as **Exhibit A**.

5. Final Judgment in the amount of \$2,065,724.12 was entered in that foreclosure action on June 17, 2017.

6. The Mortgaged Property was scheduled for Sheriff Sale on September 13, 2017, on September 28, 2017 on October 6, 2017 and then on November 16, 2017.

7. On the morning of November 16, 2017, Plaintiffs filed for relief under Chapter 13 of the United States Bankruptcy Code, Petition #17-33247-JKS. (the "First Filing"). The case was converted to Chapter 11 on March 28, 2018.

8. On or about May 4, 2018, the Hon. John K. Sherwood issued an order Vacating Stay in #17-33247-JKS.

9. Petition #17-33247-JKS was terminated on August 8, 2018.

10. On or about August 15, 2018, one week later, Plaintiff filed a new bankruptcy petition for relief under Chapter 11 of the United States Bankruptcy Code. Petition # 18-26407-JKS (the “Second Filing”).

11. On or about September 6, 2018, the Hon. Philip J. Maenza, J.S.S. entered an order dismissing Special Civil Part action MRS-SC-452-18 filed by Dartee against non-party Nationstar Mortgage LLC stating, “F-45047-14 has involved these parties and was adjudicated. Entire controversy doctrine bars duplicative lawsuits.” A true and correct copy of the Order is attached as **Exhibit B**.

12. One or about September 7, 2018, Debtor wrote to the Court withdrawing companion Special Civil Part case MRS-SC-458-18 against Bank of New York Mellon Corporation, Movant herein. A true and correct copy of the letter is attached as **Exhibit C**.

13. On or about October 23, 2018, Plaintiff filed the instant Adversary Complaint.

14. On October 24, 2018, the Hon. John K. Sherwood issued an Order Vacating Stay, Granting Movant in Rem Relief from the Automatic stay and to prevent future bankruptcy filings. A true and correct copy of the Order is attached as **Exhibit D**.

15. On or about October 25, 2018, the Hon. John K. Sherwood issued an Order denying Debtor’s Motion for Reconsideration of the Order Vacating Stay. A true and correct copy of the Order is attached as **Exhibit E**.

16. The Sheriff Sale on the Mortgaged Property was held on October 25, 2018. Debtor’s motion to vacate that sale is pending in the Foreclosure Action, returnable on December 7, 2018.

I declare under penalty of perjury that the foregoing statements made by me are true and correct.

By: /s/Ashley Rose
Ashley Rose, Esq.
SANDELANDS EYET LLP
Attorneys for Secured Creditor

Dated: November 26, 2018